

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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MURIELLE LUBIN,

Plaintiff,

Case #:

- against -

**VERIFIED COMPLAINT**

HEURYS P. CAPELLAN and  
HARMAC REBAR & STEEL CORPORATION,

**PLAINTIFFS DEMAND  
A TRIAL BY JURY**

Defendants.

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Plaintiff, complaining of the defendants, by her attorneys, **DELL & DEAN, PLLC**,  
allege upon information and belief as follows:

**JURISDICTION AND VENUE**

1. At all times hereinafter mentioned, plaintiff, **MURIELLE LUBIN**, was and still is a citizen of the State of New York, residing at 239-18 148<sup>th</sup> Road, Rosedale, County of Queens.

2. Upon information and belief, defendant, **HEURYS P. CAPELLAN**, was and still is a resident of the State of New Jersey, residing at 224 New Brunswick Avenue, Perth Amboy, County of Middlesex.

3. Upon information and belief, defendant, **HARMAC REBAR & STEEL CORPORATION**, was and still is a foreign business corporation or other legal entity duly organized and existing under and by virtue of the laws of the State of Maine and doing business in New York.

4. That at all times hereinafter mentioned, defendant, **HARMAC REBAR & STEEL CORPORATION**, maintained a principal place of business in the County of Oxford, State of Maine.

5. At all times hereinafter mentioned, defendant, **HEURYS P. CAPELLAN**, committed a tortuous act within the State of New York.

6. At all times hereinafter mentioned, defendant, **HARMAC REBAR & STEEL CORPORATION**, committed a tortuous act within the State of New York.

7. At all times hereinafter mentioned, plaintiff, **MURIELLE LUBIN**, was the operator of a 2013 Chevrolet motor vehicle bearing New York state license plate number HSB3737.

8. At all times hereinafter mentioned, defendant, **HARMAC REBAR & STEEL CORPORATION**, was the owner of a 2007 Chevrolet motor vehicle bearing Maine State license plate number 3569TM.

9. At all times hereinafter mentioned, defendant, **HEURYS P. CAPELLAN**, was the operator of a 2007 Chevrolet motor vehicle Maine State license plate number 3569TM, owned by defendant, **HARMAC REBAR & STEEL CORPORATION**.

10. The amount in controversy in this matter exceeds the sum of **SEVENTY FIVE THOUSAND (\$75,000.00) DOLLARS** exclusive of interest and costs.

11. Jurisdiction is properly had over this matter pursuant to 28 U.S.C. 1332 since the parties are citizens of diverse states, and the amount in controversy exceeds the sum of **SEVENTY FIVE THOUSAND (\$75,000.00) DOLLARS**.

12. Venue is properly placed in the United States District Court for the Eastern District of New York since the plaintiffs reside within that district, and that district is the most convenient for this action to be tried.

**AS AND FOR A CLAIM FOR RELIEF**  
**ON BEHALF OF PLAINTIFF**

13. On or about April 13, 2018, at approximately 4:15 a.m., plaintiff, **MURIELLE**

**LUBIN**, was lawfully operating the aforementioned motor vehicle on I-95N GWB Eastbound at its intersection with Post 14, State of New Jersey, while traveling eastbound on I-95N, the vehicle was caused to be struck by a motor vehicle bearing Maine State license plate number 3569TM, which was owned by defendant, **HARMAC REBAR & STEEL CORPORATION** and being operated by defendant, **HEURYS P. CAPELLAN**, causing plaintiff to suffer permanent and catastrophic injuries herein after set forth.

14. At all times hereinafter mentioned, defendant, **HARMAC REBAR & STEEL CORPORATION**, negligently entrusted the 2007 Chevrolet motor vehicle bearing Maine State license plate number 3569TM to the defendant, **HEURYS P. CAPELLAN**.

15. At all times hereinafter mentioned, the defendant, **HEURYS P. CAPELLAN**, was under a duty to own, operate, maintain and control the aforesaid motor vehicle in a reasonable, prudent, proper, careful and safe manner.

16. At all times hereinafter mentioned, defendant, **HARMAC REBAR & STEEL CORPORATION**, was under a duty to own, operate, maintain and control the aforesaid motor vehicle in a reasonable, prudent, proper, careful and safe manner.

17. At all times hereinafter mentioned, defendant, **HARMAC REBAR & STEEL CORPORATION**, knew or should have known that defendant, **HEURYS P. CAPELLAN**, was incompetent to operate the aforesaid motor vehicle.

18. The aforesaid occurrence and personal injuries sustained by plaintiff, **MURIELLE LUBIN**, was caused solely and wholly by the negligence, carelessness and recklessness of the defendant, **HEURYS P. CAPELLAN**, without any negligence on the part of the plaintiffs contributing thereto.

19. The aforesaid occurrence and personal injuries sustained by plaintiff, **MURIELLE LUBIN**, was caused solely and wholly by the negligence, carelessness and

recklessness of the defendant, **HARMAC REBAR & STEEL CORPORATION**, without any negligence on the part of the plaintiffs contributing thereto.

20. By reason of the foregoing, Plaintiff, **MURIELLE LUBIN**, was caused to suffer severe and permanent injuries; were rendered sick, sore, lame and disabled; have required and will require in the future medical care, hospitalization, treatment and surgery and will be permanently injured; have suffered and will suffer in the future, great physical pain and mental anguish, and were injured in other ways, both internally and externally to the extent that they are still sick, sore, lame and disabled.

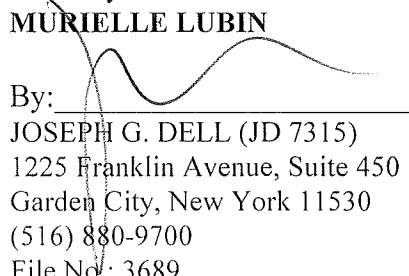
21. By reason of the plaintiff's personal injuries, plaintiff was unable to attend to her normal occupations thereby losing time from employment, has lost and will lose in the future wages they otherwise would have earned were it not for the injuries sustained herein.

22. By reason of the foregoing, the plaintiff is entitled to recover from the defendants for all of the damages that they have suffered and will continue to suffer.

**WHEREFORE**, Plaintiff, **MURIELLE LUBIN**, demands judgment against the defendants for all the damages which they have suffered by reason of the negligence of the defendants and which damages they will continue to suffer all together with the costs and disbursements of this action.

Dated: Garden City, NY  
May 21, 2019

DELL & DEAN, PLLC  
Attorneys for Plaintiff  
**MURIELLE LUBIN**

By:   
JOSEPH G. DELL (JD 7315)  
1225 Franklin Avenue, Suite 450  
Garden City, New York 11530  
(516) 880-9700  
File No.: 3689

VERIFICATION

STATE OF NEW YORK     )  
                                      )ss.:  
COUNTY OF NASSAU     )

I, Murielle Lubin , being duly sworn, deposes and says:

I am the plaintiff in the within action;

I have read the following complaint and believe the same is to  
be true to my knowledge; the same is true to my knowledge except as to those matters therein  
stated to be alleged on information and belief and as to those matters I believe them to be true.

X *Murielle Lubin*

Sworn to before me this

21 day of May, 2019

*Alexandra Mahl*

